

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

Case No. 1:22-cv-22657-KMM

COURTNEY MCLEOD,

Plaintiff,

v.

CHEF CREOLE INC. and
WILKINSON SEJOUR,

Defendants.

ORDER

THIS CAUSE is before the Court upon Plaintiff Courtney McLeod’s Motion to Compel Fact Information Sheet. (ECF No. 36). No response has been filed and the time to do so has passed. The matter has been referred to the undersigned by the Honorable K. Michael Moore, United States District Judge, pursuant to 28 U.S.C. § 636 and the Magistrate Judge Rules of the Local Rules of the Southern District of Florida, to take all necessary and proper action as required by law with respect to Plaintiff’s Motion. (ECF No. 39). Having considered the Motion, the record as a whole, and being otherwise fully advised, the Motion to Compel Fact Information Sheet is **GRANTED** as set forth below.

I. BACKGROUND

This is an action brought, in part, under the Fair Labor Standards Act (“FLSA”), 29 U.S.C. § 201, *et seq.* Plaintiff Courtney McLeod commenced this action against Defendants Chef Creole Inc. and Wilkinson Sejour in this Court on August 22, 2022 by filing the Complaint (ECF No. 1),

therein asserting claims for unpaid minimum wages and overtime wages under the FLSA, and for breach of contract and unjust enrichment under Florida law.

Defendant Chef Creole Inc. was served with process but failed to appear or answer the Complaint. On December 12, 2023, the District Court entered its Order on Second Amended Motion for Default Judgment, which granted, in part, Plaintiff's request for entry of a default final judgment against Defendant Chef Creole Inc, finding Defendant liable to Plaintiff for unpaid wages under the FLSA, as well as for breach of contract. (ECF No. 35). The District Court assessed damages in favor of Plaintiff in the amount of \$5,349.00 and liquidated damages in the amount of \$4,584.25.

Now, in the Motion to Compel Fact Information Sheet and pursuant to Federal Rule of Civil Procedure 69(a)(2), Plaintiff seeks an order compelling Defendant Chef Creole Inc. to complete and hand-deliver or fax to Plaintiff's counsel Florida Form 1.977 within 30 days.

II. DISCUSSION

Federal Rule of Civil Procedure 69(a)(2) provides that “[i]n aid of the judgment or execution, the judgment creditor or a successor in interest whose interest appears of record may obtain discovery from any person—including the judgment debtor—as provided in these rules or by the procedure of the state where the court is located.” Fed. R. Civ. P. 69(a)(2). “Under Rule 69, the Court looks both to the Federal Rules of Civil Procedure and the Florida Rules of Civil Procedure.” *Pronman v. Styles*, No. 12-80674-CIV, 2016 WL 4618087, at *2 (S.D. Fla. Aug. 19, 2016). The Florida procedure is set forth in Florida Rule of Civil Procedure 1.560, which provides, in pertinent part:

In addition to any other discovery available to a judgment creditor under this rule, the court, at the request of the judgment creditor, shall order the judgment debtor or debtors to complete form 1.977, including all required attachments, within 45

days of the order or such other reasonable time as determined by the court. Failure to obey the order may be considered contempt of court.

Fla. R. Civ. P. 1.560(b).

Plaintiff has attached the proposed fact information sheet as Exhibit "A" to the Motion. The Court has not been presented with any reason why Defendant should not be compelled to complete a fact information sheet in accordance with Florida Rule of Civil Procedure 1.560(b). Accordingly, and without opposition, Plaintiff's request that Defendant be ordered to complete form 1.977, the fact information sheet utilized by the Florida courts, is granted.

III. CONCLUSION

Based on the foregoing, it is hereby **ORDERED AND ADJUDGED** that

(1) Plaintiff Courtney McLeod's Motion to Compel Fact Information Sheet (ECF No. 36) is **GRANTED**;

(2) Defendant Chef Creole Inc. **SHALL** complete under oath Form 1.977 of the Florida Rules of Civil Procedure, including all required attachments, and serve it on Plaintiff's counsel within **THIRTY (30) DAYS** of receiving service of this Order.

DONE AND ORDERED in Chambers at Miami, Florida, on this 3rd day of January, 2024.



LAUREN F. LOUIS
UNITED STATES MAGISTRATE JUDGE

Copies to:
Honorable K. Michael Moore
Counsel of Record